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## ***Public Utility Commission of Texas***

Marlene H. Dortch - Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W. - TWA 325  
Washington, D.C. 20554

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Federal Communications Commission  
Office of the Secretary

Irene Flannery - Vice-President of High Cost and Low Income Divisions  
Universal Service Administrative Company  
2000 L. Street, NW - Suite 200  
Washington, D.C. 20036

January 30, 2006

**RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45**

**TPUC Project No. 25787 - FCC Letters Regarding ETC Designation Pursuant to FTA '96 §214(e) (2)**

**TPUC Docket No. 32142 - Application of Texas RSA 8 South Limited Partnership d/b/a Westex Wireless for Designation as an Eligible Telecommunications Carrier**

### **ETC Designation of Texas RSA 8 South Limited Partnership d/b/a Westex Wireless**

Pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 - 54.203, the Texas Public Utility Commission (TPUC) has granted eligible telecommunications carrier (ETC) designation to Texas RSA South Limited Partnership d/b/a Westex Wireless. The attached *Order*, Docket No. 32142, issued on January 25, 2006, grants Westex Wireless ETC designation for the study area of Wes-Tex Telephone Cooperative, Inc, and the Verizon Southwest, Inc. exchange of Sterling City.

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If you require any additional information please call Rosemary McMahon at (512)-936-7244.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary McMahon", with a stylized flourish at the end.

Rosemary McMahon – Senior Policy Analyst  
Communication Industry Oversight Division - Texas Public Utility Commission

cc: attachment

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**DOCKET NO. 32142**

**APPLICATION OF TEXAS RSA 8 SOUTH § PUBLIC UTILITY COMMISSION  
LIMITED PARTNERSHIP D/B/A WESTEX §  
WIRELESS FOR DESIGNATION AS AN § OF TEXAS  
ELIGIBLE TELECOMMUNICATIONS §  
CARRIER (ETC) §**

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**ORDER NO. 3  
NOTICE OF APPROVAL FOR DESIGNATION AS  
AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

***Procedural History***

On December 9, 2005, Texas RSA 8 South Limited Partnership d/b/a Westex Wireless (Westex Wireless) filed an application for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418. Westex Wireless is a commercial mobile radio service provider licensed by the Federal Communications Commission (FCC). Westex Wireless is requesting ETC designation in the study area of Wes-Tex Telephone Cooperative, Inc., (Wes-Tex Coop) and in the exchange of Sterling City which is in the territory of Verizon Southwest, Inc. The areas requested are within Westex Wireless' Texas CMRS territory.

The Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, and motions to intervene. Notice was published in the *Texas Register* on December 23, 2005. The Applicant provided a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later. Therefore, the earliest effective date for this proceeding is January 25, 2006.

No objection, comment, or motions to intervene were filed, and no hearing was requested.

On January 20, 2006, Commission Staff (Staff) filed a recommendation that Westex Wireless be granted ETC designation based on the following, and that it be required to file its proposed Lifeline Service Tariff in Project No. 27385 for the public record.

***Designation as Eligible Telecommunications Carrier***

To qualify for ETC status, a carrier must meet four conditions:<sup>1</sup>

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA '96), Section 3(10).
2. The carrier must offer the following services (requisite services),<sup>2</sup> using its own facilities or a combination of its own facilities and the resale of another carrier's services:<sup>3</sup>
  - (a) voice grade access to the public switched network;
  - (b) local usage;
  - (c) dual tone multi frequency signaling or its functional equivalent;
  - (d) single party service or its functional equivalent;
  - (e) access to emergency services, including such services as 911 or enhanced 911;
  - (f) access to operator services;
  - (g) access to interexchange service;
  - (h) access to directory assistance; and
  - (i) toll limitation for qualifying low income customers.
  - (j) toll control for qualifying low-income customers.
3. The carrier must advertise the availability of and charges for the requisite services in a media of general distribution.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 54.201(b)-(d).

<sup>2</sup> 47 C.F.R. § 54.101.

<sup>3</sup> 47 C.F.R. § 54.201.

<sup>4</sup> 47 C.F.R. § 54.201.

4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.<sup>5</sup>

Westex Wireless meets all of the above criteria. Westex Wireless will advertise the designated services and their rates through notices using media of general distribution. Westex Wireless provides the required services through a combination of its own facilities and resale of another carrier's services where necessary. Westex Wireless has made a commitment to offer Lifeline and Link Up support and has provided a proposed tariff with its application, which it has committed to adopt upon designation. In addition, Westex Wireless's proposed Lifeline tariff reflects recent changes in PURA, and indicates that it will participate in the automatic enrollment and self-enrollment processes for low-income customers.

Westex Wireless has not requested any waivers of the FCC requirements. Westex Wireless does not offer toll control, but on December 30, 1997, the FCC clarified its Order regarding "toll limitation" to require a carrier to offer only one form, either toll blocking or toll control, for designation as an ETC. On August 13, 1998, the Commission, in Docket No. 18100, *General Counsel's Petition for Designation of Eligible Telecommunications Carriers Under 47 U.S.C. Section 214(e)*, recognized this clarification in Order No. 6, *Finding Applicants in Compliance With Requirement To Provide Toll Limitation Service, And Relieving Them Of Obligation to Obtain Waiver*. Westex Wireless offers toll blocking and, therefore, meets this criterion.

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<sup>5</sup> 47 C.F.R. § 54.405.

Wes-Tex Coop is the rural ILEC in the study area for which Westex Wireless requests USF support. FTA § 54.201(c) states:

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (D) of this section.

The Commission has declined to adopt specific public interest criteria in rural ETC designation proceedings, but has required "...that an applicant demonstrate that its designation is of material benefit above and beyond the *status quo* of its existing operations in the requested areas."<sup>6</sup> The Commission recommended in *Nextel* that, with regard to the public interest evaluation, applicants provide detail on the following issues: (1) service offerings, including additional service offerings for the proposed ETC designation areas, (2) additional service quality commitments, (3) detailed coverage areas, (4) continuation of service commitments, such as back-up power capability, and (5) consumer protection standards, and (6) information regarding how the company will better serve the consumer if granted designation.<sup>7</sup>

Westex Wireless has provided well-defined maps of its service area, has committed to serve any customer within its designated area, and has committed to abide by the FCC's regulations regarding Phase II E-911 service. In addition, Westex Wireless's application addressed the Commission's request for competitive carriers entering rural areas to provide

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<sup>6</sup> Application of NPCR, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation, Docket No. 27709, Final Order at 9 (June 30, 2004) (*Nextel*).

<sup>7</sup> *Id.*

service that enhances or exceeds existing telecommunications service. Westex Wireless stated that, if granted ETC designation, it would provide a new service plan with unlimited local calling. In addition, Westex Wireless provided a detailed network investment plan, which provides for an additional nine cell sites at an estimated investment of \$1.35 million by 2007 in the proposed designation area for the purpose of providing improved signal quality. Further, Westex Wireless committed to provide the following three annual reports to the Commission: (1) its progress in meeting its network investment commitments, including information regarding network and service improvements made through the receipt of federal universal service funds; (2) customer complaints per 1,000 handsets; and (3) the results of an annual customer survey.


Staff stated that Westex Wireless's application is in the public interest.

***Ordering Paragraph***

In accordance with Staff's recommendation and for all the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, Westex Wireless' application for ETC designation is **APPROVED** effective January 25, 2006. Westex Wireless is granted ETC status in the study area of Wes-Tex Coop., and in the exchange of Sterling City which is in the territory of Verizon Southwest, Inc. Westex Wireless shall file its proposed Lifeline Service Tariff in Project No. 27385 for the public record.

SIGNED AT AUSTIN, TEXAS ON the 25<sup>th</sup> day of January 2006.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
IRENE MONTELONGO  
ADMINISTRATIVE LAW JUDGE